

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)

First named inventor: Brian P. RoartyApplication No.: 10/797,255Filed: March 10, 2004Art Unit: 3663Examiner: Erin M. B. LeachTitle: Implementation and Application of Phase Change In A Fluid Flowing Through A Nozzle

Attention: Office of Petitions

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions
Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the
United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set
for reply in the office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed
before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional

1. Petition Fee

- ☒ Small entity-fee \$ 810.00 (37 CFR 1.17(m)). Application claims small entity status. See 37 CFR 1.27.
- ☐ Other than small entity-fee \$ _____ (37 CFR 1.17(m))

2. Reply and/or fee

- A. The reply and/or fee to the above-noted Office action in
the form of marked claims listing w/text corrections (identify type of reply):

- ☒ has been filed previously on Jan. 19th, 2010; and,
- ☒ is enclosed herewith.

- B. The issue fee and publication fee (if applicable) of \$ _____.

- ☐ has been paid previously on _____.
- ☐ is enclosed herewith.

(Page 1 of 2)

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number

3. Terminal disclaimer with disclaimer fee

- ☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

George S. Cole
Signature
George S. Cole
Type or Printed name
495 Seaport Court, Suite 101
Address
Redwood City, CA 94063
Address

April 29th, 2011

Date

40,563

Registration Number, If applicable
650-322-7760

Telephone Number

- Enclosures:
- ☒ Fee Payment
 - ☒ Reply
 - ☐ Terminal Disclaimer Form
 - ☒ Additional sheets containing statements establishing unintentional delay
 - ☒ Other: Pet'ns (in alternative) to W/D Holding of Abandonment; Revive for Unavoid. Delay

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

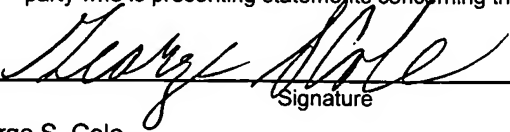
Date

Signature

Typed or printed name of person signing certificate

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
***UNINTENTIONALLY* ~~UNAVOIDABLY~~ UNDER 37 CFR 1.137(a)**

NOTE: The following showing of the cause of ~~unavoidable~~ ^{*unintentional*} delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.



Signature

George S. Cole

Typed or printed name

April 29th, 2011

Date

40,563

Registration Number, if applicable

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply.)

I never received the Office letter dated 10 May 2010, and thus did not know any response or action was due until I received the Notice of Abandonment on Apr. 22, 2011.

I was only able to reach the Examiner and discover the necessary reply (correction of text markings to newly amended claim 4), which had been the grounds for the Office letter of 10 May 2010, and which would have to be prepared as part of any Petition to Revive, on the afternoon of April 28th, 2011. When that conversation was over it was too late to call the Office of Petitions, which I did the next morning, the date of this petition.

Both yesterday and today I checked and confirmed (a) that my files had no record of any communication from the PTO of 10 May 2010; (b) that a search of the my records, including the files, that application's specific file folder, front docket, and computer calendar, and the application contents, further indicate that the Office Action was not received; and (c) that the care and diligence in recording communications concerning patent applications in this office are those permit me to rely upon the ordinary and trustworthy agencies of the PTO and the mail. I also discovered that the required corrections had in fact been submitted to the PTO on Jan. 19th, 2010. The further specific details on these points are set out in the Petition to Withdraw Holding of Abandonment and are specifically incorporated by reference herein.

This Petition could not have been prepared until today, as its preparation required obtaining information solely in the possession of the USPTO (the existence of any necessity to respond, and the details as to what response had to be provided, and what response should be prepared), until this morning, April 29th, 2011.

(Please attach additional sheets if additional space is needed.)

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)**

Docket Number (Optional)

First Named Inventor: Brian P. RoartyArt Unit: 3663Application Number: 10/797,255Examiner: Erin M. B. LeachFiled: March 10, 2004

Title:

Implementation and Application of Phase Change In A Fluid Flowing Through A Nozzle

Attention: Office of Petitions

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

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Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION.

NOTE: A grantable petition requires the following items:

- (1) Petition fee.
- (2) Reply and/or issue fee.
- (3) Terminal disclaimer with disclaimer fee – required for all utility and plant applications filed before June 8, 1995, and for all design applications; and
- (4) Adequate showing of the cause of unavoidable delay.

1. Petition fee

☒ Small entity – fee \$ 270.00 (37 CFR 1.17(l)). Applicant claims small entity status.
See 37 CFR 1.27.

☐ Other than small entity – fee \$ _____ (37 CFR 1.17(l)).

2. Reply and/or fee

A The reply and/or fee to the above-noted Office action in the form of
marked claims listing w/text corrections (identify the type of reply):

☒ has been filed previously on Jan. 19th, 2010

☒ is enclosed herewith.

B The issue fee of \$ _____

☐ has been filed previously on _____

☐ is enclosed herewith.

[Page 1 of 3]

This collection of information is required by 37 CFR 1.137(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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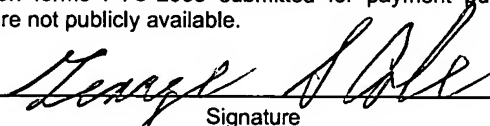
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37 CFR 1.137(a)****3. Terminal disclaimer with disclaimer fee**

- ☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.**WARNING:**

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Signature

George S. Cole

April 29th, 2011

Date

Typed or printed name

495 Seaport Court, Suite 101

Address

Redwood City, CA 94063

Address

40,563

Registration Number, if applicable

650-322-7760

Telephone Number

Enclosure ☒ Fee Payment☒ Reply☐ Terminal Disclaimer Form☒ Additional sheets containing statements establishing unavoidable delay☒ Pet'ns (in alternative) to W/D Holding of Abandonment; Revive for Unintent'l Delay**CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))**

I hereby certify that this correspondence is being:

☐ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to **Mail Stop Petition**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Date


Signature

Typed or printed name of person signing certificate

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.

	April 29th, 2011
_____ Signature	_____ Date
George S. Cole	40,563
_____ Typed or printed name	_____ Registration Number, if applicable

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply.)

I never received the Office letter dated 10 May 2010, and thus did not know any response or action was due until I received the Notice of Abandonment on Apr. 22, 2011.

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(Please attach additional sheets if additional space is needed.)

George S. Cole, Esq.
495 Seaport Court, Suite 101
Redwood City, CA 94603

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GSCdLawyer@att.net



Commissioner of Patents
US Patent and Trademark Office
P.O. Box 1450
Arlington, VA 22313-1450

Apr. 29th, 2011

Re: Application 10/797,255
Filing Date March 10, 2004
Inventor Brian P. Roarty
Art Unit 3663
Examiner Erin M. Boyd
Petitions (in the alternative) to:
Withdraw Holding of Abandonment
Revive, Abandoned Unavoidably
Revive, Abandoned Unintentionally

Dear Commissioner:

On Apr. 29th, 2011, I am sending by Express Mail the above Petitions, with respective supporting evidence and payment. (The above-named inventor qualifies for and asserts small entity status.)

These petitions are submitted in the alternative; if the Withdrawal of Holding is not granted, it is requested that Revival for Unavoidable Delay be granted; and if that second petition is not granted, it is requested that Revival for Unintentional Delay be granted.

The PTO website indicates three separate mailing addresses, respectively:

Petition To Withdraw Holding Of Abandonment should be addressed as follows:

Mail Stop: Issue Fee
Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Petition [for Withholding of Abandonment Based on Failure to Receive Office Action] should be addressed to the Technology Center handling the application as follows:

Commissioner for Patents
(Mark attention of a particular office or individual)
P.O. Box 1450
Alexandria, VA 22313-1450

and,

George S. Cole, Esq.
495 Seaport Court, Suite 101
Redwood City, CA 94603

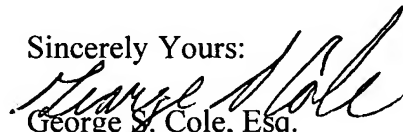
Tel. 650-322-7760
Fax 650-322-6117
GSCdLawyer@att.net

Petitions under 37 CFR § 1.137 should be addressed as follows:

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450.

I have used the first, only, both to avoid multiple-track and possibly colliding efforts on the part of PTO personnel, and because the foremost grounds for the petition – that the PTO already had had the requested information, and thus had no grounds for either its Office letter or subsequent Notice of Abandonment (after the letter was never received) – made the first address the most likely to be correct. If I was wrong in this assessment I apologize, but I could find no better answer even when speaking by telephone with the Office of Petitions this morning.

Sincerely Yours:


George S. Cole, Esq.
PTO #40,563



EXPRESS MAIL CERTIFICATE

"EXPRESS MAIL" mailing label No: EG 272308278 US

Date of Deposit: Apr. 29th, 2011

I hereby certify that the following documents:

- attorney cover letter;
- Petition to Withdraw Holding of Abandonment
 - Notice of Abandonment (mail date 04/06/11)
 - Exhibit 1: file folder and docket cover
 - Exhibit 2: Jan. 19th, 2010 materials
 - Express Mail Label
 - text of Response;
 - Applicant's Declaration;
 - clean claims listing;
 - marked claims listing;
 - Express Mail Certificate;
- Petition (in the alternative) for Revival of an Application for Patent Abandoned Unavoidably Under 37 CFR 1.137(a);
 - Showing of Cause of Unavoidable Delay;
 - payment (check) (\$270) for small entity;
 - reply (marked claims listing) filed Jan. 19th, 2010
- Petition (in the alternative) for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b);
 - Showing of Cause of Unintentional Delay;
 - payment (check) (\$810) for small entity;
 - reply (marked claims listing) filed Jan. 19th, 2010
- a copy of this Express Mail Certificate;

are being deposited in a single envelope with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. 1.10 on the date indicated above and such envelope is addressed to:

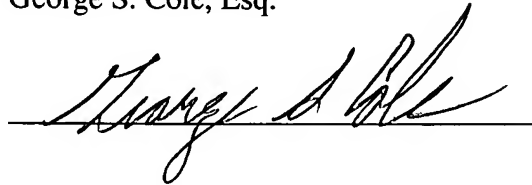
Mail Stop: Issue Fee

Commissioner for Patents

P.O. BOX 1450

Alexandria, VA 22313-1450.

George S. Cole, Esq.

A handwritten signature in cursive script, appearing to read "George S. Cole", is written over a horizontal line.